



Brian Schweitzer, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

September 22, 2006

Max H. Dodson
Assistant Regional Administrator
US EPA Region 8
One Denver Place
999 18th Street
Denver, Colorado 80202-2405

RE: The Montana Department of Environmental Quality's Partial Concurrence in the Record of Decision, Butte Priority Soils Operable Unit, Silver Bow Creek/Butte Area NPL Site

Dear Mr. Dodson:

The Montana Department of Environmental Quality (DEQ) partially concurs with the Record of Decision (ROD) for the Butte Priority Soils Operable Unit, Silver Bow Creek/Butte Area NPL Site in Montana. DEQ believes elements in this ROD will lead to significant improvement over current conditions affecting human health and the environment in the BPSOU. As the support agency, we appreciate those areas where EPA has considered our comments and suggestions, and we offer our continued support during remedial design, remedial action and long-term operation and maintenance of the BPSOU site.

DEQ concurs with and supports the following aspects of the ROD:

- EPA's determination that there are present and potential human health and environmental risks in the Operable Unit that must be addressed pursuant to CERCLA and the NCP.
- EPA's residential metals abatement program, including the prioritization method, the whole property approach to assessment and abatement, management by Butte-Silver Bow County Health Department, long-term tracking, and medical monitoring.
- The decision not to consider flow augmentation until the major remedial components described in the ROD are designed and implemented.
- The need for a controlled groundwater area as a part of this Selected Remedy, together with an adequately funded education and well abandonment program. The controlled groundwater area together with institutional controls for solid wastes left in place should minimize human contact with contaminated materials.

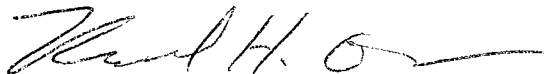
In partially concurring, however, DEQ does not agree with all the decisions made by EPA or all the statements and opinions expressed in the ROD. The areas of disagreement between our agencies have been extensively documented in previous State comments and won't be reiterated here. However, as you know, DEQ does not concur with the overarching decision to leave accessible, major sources of groundwater contamination in place. We refer specifically to the Parrot Tailings, Diggings East Tailings and the North Side Tailings. Our concern is that leaving these wastes in place poses a significant and permanent threat to groundwater and to the long-term water quality in Silver Bow Creek.

EPA's remedy decision relies upon capturing and treating highly contaminated ground water in perpetuity to protect Silver Bow Creek. However, the State believes that significantly more weight should have been given to Metro Storm Drain Alternative 5b, which called for the removal of the major sources of groundwater contamination, as the State in fact did at the Silver Bow Creek/Butte Area NPL site. The State believes that such removal would substantially reduce toxicity, mobility, and volume of groundwater contamination and greatly increase the permanence and long-term effectiveness of the remedy for this highly contaminated groundwater area. With the degree of uncertainty surrounding the question of whether the aquifer would clean up in a reasonable period of time following waste removal, the State believes the more protective approach of removing the major sources of contamination would be the appropriate action.

DEQ also has concerns about the long-term implementation of the Butte Reclamation Evaluation System (BRES) for waste left in place. The reclamation repair component must be aggressively implemented, adequately funded and seek to establish diverse, self-sustaining vegetative covers for this component to remain protective over time.

Again, we thank EPA for consulting with DEQ in developing the ROD. We look forward to working closely with the EPA, responsible parties, Butte-Silver Bow County Government, landowners and the public in Butte in designing and implementing the remedy to help ensure a clean and healthful environment for the citizens of the State, especially those who live or work in Butte.

Sincerely,

A handwritten signature in black ink, appearing to read "R. H. Oppen", with a long horizontal flourish extending to the right.

Richard H. Oppen
Director